

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

SEAN YOUNG, FOREVER YOUNG
BAKERIES LLC; and FOREVER YOUNG
PROPERTIES LLC,

Plaintiffs,

vs.

TOWN OF CONWAY, NEW HAMPSHIRE

Defendant.

Civil No. 1:23-cv-00070-JL

**JOINT NOTICE TO THE COURT REGARDING THE PARTIES’
FEBRUARY 8 CONFERENCE AND UPCOMING ELECTION**

The parties submit this joint notice to update the Court on the parties’
agreed-upon next steps in the case regarding Leavitt’s Country Bakery.

On February 8, 2023, the parties met to confer as to how this matter should
proceed given the stipulation and an upcoming election that could affect the need
for further litigation.

The genesis of this controversy was the Town’s determination that under its
definition of “sign,” the painting above Leavitt’s entrance was not a mural, but
instead had to comply with the size and other restrictions in the Town’s sign code.
But a petition to change that definition of “sign” will now be before the voters after
garnering enough signatures to be submitted as a “warrant article.” The vote on

that article will take place on April 11, 2023, and the period for requesting a recount will end on April 18.

Should the warrant article pass, the definition of “sign” under which the Town took action against Plaintiffs, and upon which the complaint in this action is based, will be no more. At that point, the Town will have to decide if Leavitt’s current mural remains a “sign” under the new definition. It will also need to determine if other similar murals designed and painted by the local high school art class would likewise be “signs” if displayed on Leavitt’s façade. Should the Town determine that neither the current mural nor similar future murals would be “signs,” that would likely resolve the controversy between the parties.

Accordingly, the parties agree that the best course of action is to stay proceedings for 90 days. This will allow for the election to occur and, should the warrant article pass, for the determinations discussed in the previous paragraph to be made by the Town. Two weeks before the end of the stay period, the parties would then advise the Court about the need for further litigation. Should litigation continue to be necessary at that point, the parties believe there would likely be few or no contested issues of material fact, such that they could conduct limited discovery and then submit motions for summary judgment for the Court’s consideration.

We hope that this path forward is amenable to the Court. The parties stand ready to submit a joint motion requesting the above-described stay should the Court feel it necessary. Should the Court have any questions, the parties stand by to answer them. Counsel thanks the Court for its time and attention to this case.

RESPECTFULLY SUBMITTED this 10th day of February 2023,

/s/ John M. Crabbs, II

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